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Commissioner

STATE OF NEVADA **DIVISION OF MORTGAGE LENDING**DEPARTMENT OF BUSINESS AND INDUSTRY

NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED PERMANENT REGULATION FOR MORTGAGE LENDING AND RELATED PROFESSIONS

January 15, 2010

The State of Nevada, Division of Mortgage Lending is proposing to adopt regulations related to Chapter 645F of the Nevada Revised Statutes (Mortgage Lending and Related Professions, General Provisions) as they relate to Assembly Bill No. 513 (AB 513) which was enacted during the 75th Session of the Nevada Legislature. AB 513 section 20 provides the following:

Chapter 645F of NRS is hereby amended by adding thereto a new section to read as follows: The Commissioner shall adopt regulations establishing guidelines and limitations for the servicing or arranging of loans of which an investor has ownership or in which an investor has a beneficial interest.

A workshop to solicit comments from interested persons on proposed regulations will be held at the following locations through simultaneous videoconference:

DATE: February 5, 2010

TIME: 10:30 am

LOCATIONS: WORKSHOP WILL BE VIDEO-CONFERENCED

LAS VEGAS
THE BRADLEY BUILDING
2501 E. SAHARA AVENUE
2ND FLOOR CONFERENCE ROOM
LAS VEGAS, NV 89104

CARSON CITY
DEPT. OF BUSINESS & INDUSTRY
788 FAIRVIEW DRIVE
HEARING ROOM
CARSON CITY, NV 89701

The purpose of the workshop is to solicit comments related to the adoption of regulations pertaining to AB 513, section 20 from interested persons. The Division has not yet drafted proposed language for these regulations. The Division intends to schedule a second workshop related to the requirements of AB 513 and will draft language for discussion and comment prior to the workshop. Topics for discussion may include, but will not be limited to the following:

- 1. Applicability of the regulations, chapters 645B, 645E, 645A;
- 2. Federal preemption & applicability of the Real Estate Settlement Procedures Act and Federal Trade Commission;

- 3. General fiduciary duties, including maintaining independence and allowing control and direction by the parties to the transaction;
- 4. Require loan servicing agreements to be approved by the Division, or have prescribed requirements;
- 5. Qualify that the provisions of NRS 645B.175 (1) & (4) "money paid to a mortgage broker and his mortgage agents by a person in full or in partial payment of a loan" & "money received by a mortgage broker and his mortgage agents from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property" does not encompass interest reserve or building control monies, and such accounts must be placed in an escrow account which is controlled by a person who is independent of the broker and subject to instructions regarding the account which are approved by the parties.
- 6. Require a separate disclosure of the involvement if a licensee, relative, employee or affiliate of the licensee either directly or through ownership in an entity, is a borrower or investor on the loan (currently only in 645B):
- 7. If a licensee, relative, employee or affiliate of the licensee either directly or through ownership in an entity, is an investor or borrower, the licensee, or relative or affiliate, cannot service the loan;
- 8. If a licensee services a loan, it cannot service another loan securing the same property unless all of the investors in each are the same;
- 9. Prohibiting a licensee from offsetting moneys in trust accounts for moneys owed to the licensee for other reasons without the separate written consent of the investor whose money is to be offset, which is not a general statement obtained with other loan closing docs;
- 10. When a loan is terminated because of a foreclosure or deed in lieu, the loan servicing agreement ends; if a licensee continues to manage the property, the licensee must hold an appropriate license through the Nevada Real Estate Division and manage it pursuant to a separate property management agreement;
- 11. Standards for transfer of servicing rights, investor/borrower consents;
- 12. Require the licensee/servicer to provide, through e-mail, mail or fax, a loan status report to all investors every 30-60 days. The status report should include information such as payments, property taxes and insurance premiums owed by dollar amount and due dates, liens placed, deficiency actions, tax sale dates; and
- 13. Procedures for actions in defaults/foreclosure such as voting rights on agreements to pay taxes, attorney fees, insurance premiums or other costs, as well as support that all investors were polled and afford opportunity to vote and written assent of at least 51% of the investors, obtained prior to action.
- 14. Required investor disclosure for deeds in lieu explaining releases of borrower's obligations.

Written comments may be submitted at the workshop, e-mailed to jwaltuch@mld.nv.gov and swalther@mld.nv.gov or may also be submitted directly to the Commissioner, Joseph L. Waltuch, at the Division's Las Vegas office located at:

Division of Mortgage Lending 7220 Bermuda Rd., Suite A Las Vegas, NV 89119

NOTICE: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to participate. If special arrangements are necessary, please call Supervisory Examiner Sheila Walther at (775) 684-7055 as soon as possible so that suitable arrangements can be conveniently made.

This notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all interested persons on the Division's mailing list for administrative regulations and posted at the following locations:

Division of Mortgage Lending 400 W. King Street, Suite 101 Carson City, NV 89701 Division of Mortgage Lending 7220 Bermuda Road, Suite A Las Vegas, NV 89119 Elko Conference Center 700 Moren Way (Silver Room) Elko, Nevada 89801

Churchill County Library 553 South Maine Street Fallon, Nevada 89406

Elko County Library 720 Court Street Elko, Nevada 89801

Eureka Branch Library 10190 Monroe Street Eureka, Nevada 89316

Lincoln County Library PO Box 330 Pioche, Nevada 89043

Lyon County Library 20 Nevin Way Yerington, Nevada 89447

Tonopah Public Library 171 Central Street Tonopah, Nevada 89049

Washoe County Library 301 South Center Street Reno, Nevada 89505

Battle Mountain Library 625 Broad Street Battle Mountain, Nevada 89820 State Library 100 Stewart Street Carson City, Nevada 89701

Douglas County Library 1625 Library Lane Minden, Nevada 89423

Goldfield Public Library PO Box 430 Goldfield, Nevada 89013

Humboldt County Library 85 East 5th Street Winnemucca, Nevada 89445

Storey County Library 95 South R Street Virginia City, Nevada 89440

Mineral County Library First & A Street Hawthorne, Nevada 89415

Pershing County Library PO Box 781 Lovelock, Nevada 89419

White Pine County Library 950 Campton Street Ely, Nevada 89301